



## Care Homes Fees/Funding – An at a Glance Guide

Whether you are **arranging care home accommodation** for a relative or are **looking to the future** and **putting your affairs in order** should you need to go into a care home, there are a lot of things to consider.

Here are some of the most **frequently asked questions and common concerns about care homes**. This is just an ‘at a glance’ overview setting out the **main points to consider** – of course, you’ll need a lot more detail before making your decisions.

Our first section covers the complexities of **paying care home fees**. Our second section covers all the **legal aspects to consider** and how we can help with issues such as protecting assets, inheritance tax planning and making Last Wills and Testaments.

### Care Home Fees – Your Questions Answered

#### Who pays the care home fees?

If you or a relative is going into a care home, your local council will assess the financial situation of the person needing the care home place. This will involve looking at any savings, assets (such as a home) and any income. This will determine how the care home fees are to be paid.

Every April the Government sets an ‘upper’ and ‘lower’ limit for savings and assets. If yourself or your relative has more money than the upper limit, then you will have to pay the full care home fees. If you have less money than the lower limit, the council cannot take savings and assets into account. Anywhere in between and you will have to make a contribution to the care home fees.

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## What if myself or my relative has a partner with an income?

Only the income of the person taking the care home place can be assessed – a partner or relative's income cannot be taken into account.

## Does our choice of care home make a difference to help with care home fees?

Yes it does. If your council is paying some or all of the care home fees there will be a set amount they will spend. If you choose a care home where fees are higher, the difference will have to be paid – but not by the person going into the care home.

This 'top-up' payment is required to be paid by a friend or relative – so if you do choose to put a parent or relative into a care home and choose one whose fees are high, you may well have to pay the 'top-up' fees, which of course will add up over time.

If you are planning to fund the cost of a care home for yourself do bear in mind that there may come a time where you can't afford the care home fees any longer. If you've chosen a more expensive care home the council could refuse to pay the care home fees at your chosen accommodation and you may have to move to another location.

## My relative needs medical care – will the NHS pay the care home fees?

NHS funding is available but is notoriously hard to get hold of. Your relative will need to be assessed by your local Primary Care Trust to see if they qualify for fully-funded NHS care – do check that the assessment is carried out using the correct procedures. We can help with this.

If you or your relative need just ancillary nursing care, the NHS should make some contribution to the care home fees rather than pay them all but the assessment for full funding should be done first. If full funding is refused then a right of appeal should be given and we can help with that too.

Legal Aid is available for this work if income and assets are very low or if someone is on a means tested based benefit like guaranteed pension credit and in many cases we offer 'no win no fee' agreements.



## Legal Advice on Care Home worries

### How can I plan to pay my own care home fees?

Financial planning for care home fees is a complex area, especially if you are thinking about Inheritance Tax planning too. Talk to one of our **Independent Financial Advisers** for the most up-to-date guidance on the best way to ensure your money goes as far as it needs to, in any direction.

### What happens to our assets if I die and my partner needs to go into a care home?

With a carefully planned Last Will and Testament which would place ownership of your property into 2 separate but equal shares, should you die then your partner remains in the house with your half of the ownership passing to your children and beneficiaries.

If your partner subsequently needs to go into a care home, then only his or her half share of the house can be used for the financial assessment of ability to pay care home fees.

### I am frightened that I will become unable to make my own decisions – what can I do about that now?

We advise that you make a Lasting Power of Attorney (LPA) so you can decide in advance what should happen to your assets or welfare if you do need to go into a care home. So long as you are mentally agile now, you can make an LPA naming a relative or friend as the person who will look after your affairs if you are no longer able to do so. Without a LPA it will be very difficult and costly for your family to gain the control to handle your finances and standard of welfare should you become incapacitated. Contact our expert Solicitors to make an LPA which will ensure your wishes are followed.

### I've heard about Living Wills and Advance Decisions – what are they?

A Living Will is a Will you make now setting out what you would and would not like to happen to you in certain circumstances in the future, if you are unable at the time to state your wishes. You appoint a relative or friend to make vital decisions for you if you require medical or other treatment but cannot consent or refuse yourself.

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An Advance Decision is your right to refuse treatment in advance should you develop mental problems such as dementia later in life which would render you unable to make your own decisions at that time.

To make a Living Will or an Advance Decision you can contact our specialist solicitors who have years of experience in this particular area of law.

## **If I become mentally incapacitated what is Deprivation of Liberty?**

In April 2009, the Mental Capacity Act 2005 was amended to introduce a new system for assessment and authorisation of the deprivation of liberty of incapacitated adults. If there is no alternative but to deprive a person of their liberty, to ensure that they are safely cared for and treated, the Deprivation of Liberty safeguards say that a hospital or care home must apply to the Supervisory Body for authorisation.

The Supervisory Body is the local authority of the Primary Care Trust that commissions the service. It is responsible for commissioning the required assessments to determine whether the person concerned can be deprived of their liberty and if so, whether it is in their best interests.

In some cases, a person's relative might have concerns that the deprivation of liberty of their relative is overly restrictive and not in the incapacitated person's best interests. In such a case, we would be able to advise family members and independent advocates as to the steps that they can take, both to raise their concerns and if necessary, to act on their behalf in legal proceedings.

**This guide contains information on current legal issues applicable at the time of printing. Note there may have been changes subsequently which have not been incorporated in to the material. This guide is intended for information purposes only and its content should not be applied to any particular set of facts or relied upon without legal or other professional advice. For further information on how we can help you please contact:**

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